



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

May 9, 1995

Mr. Robert J. Gervais
Assistant City Attorney
City of Galveston
P.O. Box 779
Galveston, Texas 77553-0779

OR95-271

Dear Mr. Gervais:

You ask whether certain information is subject to required public disclosure under the Texas Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 33147.

The City of Galveston (the "city") received an open records request for the requestor's "arrest report" regarding an incident on February 25, 1995. You state that the city does not maintain documents titled "arrest reports," however, the city does maintain case reports and records of arrest. You state that while you have no case report on the requestor you do have a record of arrest. You contend that records of arrest are protected from public disclosure by common law under *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). The *Houston Chronicle Publishing Co.* court reviewed various internal documents maintained by the Houston police department. The court determined what types of information the department could withhold from disclosure under what is now section 552.108 of the Open Records Act. You have submitted the city's police department's record of arrest for our review.

Section 552.108 provides that a record of a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from disclosure. Section 552.108 applies to the records created by an agency whose primary function is to investigate crimes and enforce the criminal laws. Open Records Decision Nos. 493 (1988) at 2, 287 (1981) at 2. Section 552.108 excepts from required public disclosure all information related to cases under active investigation, except certain basic

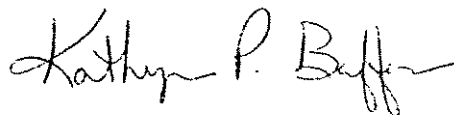
information ordinarily appearing on the first page of an offense report and in other records of law enforcement relating to arrests. As a general rule, information which may be withheld is evidentiary information including: a) information identifying witnesses; b) the summary of a confession; c) an investigator's views regarding the guilt of a suspect or the credibility of witnesses; and d) records of property confiscated at the scene of the crime. Open Records Decision No. 127 (1976).

The kinds of basic information not excepted from disclosure by section 552.108 include the following information about the crime: a) the name, age, address, race, sex, occupation, alias, and physical condition of the person; b) the location of the crime; c) the identification and description of the complainant; d) the premises involved, the time of the occurrence of the crime; e) a detailed description of the offense; f) the date and time of the arrest; g) the offense charged; h) the details of the arrest; i) booking information; j) the notation of any release or transfer; and k) the names of the arresting and investigating officers. *Houston Chronicle Publishing Co.*, 531 S.W.2d at 186-88; Open Records Decision No. 127 (1976) at 4.

After reviewing the record of arrest, we find that the document contains the type of information generally found in an offense report. Therefore, we will review the document as the *Houston Chronicle Publishing Co.* court reviewed the Houston police department's offense report. The information in the document which might generally be found on the first page of an offense report and is the type of information such as that listed in *Houston Chronicle Publishing Co.* must be disclosed to the requestor. The city may withhold the remaining information in the report based upon section 552.108.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination under section 552.301 regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,

A handwritten signature in cursive script, reading "Kathryn P. Baffes".

Kathryn P. Baffes
Assistant Attorney General
Open Government Section

KPB/KHG/rho

Ref.: ID# 33147

Enclosures: Submitted documents

cc: Mr. Chris Allen
2110 Sequoia Street
Kemah, Texas 77565
(w/o enclosures)